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CLERK U.S. DISTRICT COURT
JUL 31 2007
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DARRYL RANSOM,

Petitioner,

CASE NO. CV 07-4453-PSG (JCR)

v.
BEN CURRY, Warden,

Respondent.

ORDER REQUIRING RESPONSE TO
PETITION (28 U.S.C. § 2254)

DOCKETED ON CM
Aug - 1 2007
BY
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In order to facilitate the just, speedy, and inexpensive determination of this action, **IT IS**

ORDERED that:

1. The Clerk of this Court shall promptly (a) serve a copy of the Petition and a copy of this Order on Respondent by delivering them to the Attorney General for the State of California, or his authorized agent; and (b) serve a copy of this Order on Petitioner.

2. Within fourteen (14) days, Respondent shall file and serve a Notice of Appearance, notifying the Court of the name of the attorney who will have principal charge of the case, together with the address where the attorney may be served, and the attorney's telephone and fax number. This information is important to ensure accurate service of court documents.

3. If Respondent contends that the Petition can be decided without the Court reaching the merits of Petitioner's claims (e.g., because the Petition is barred by the applicable statute of limitations, or is subject to dismissal under Rule 9 of the Rules Governing Section 2254 Cases in

(4)

1 the United States District Courts), Respondent shall file a Motion to Dismiss ("Motion") within thirty
2 (30) days of the date of this Order.¹ The Motion to Dismiss shall not address the merits of Petitioner's
3 claims. At the time the Motion to Dismiss is filed, Respondent shall lodge with the Court all records
4 bearing on Respondent's contention in this regard.²

5 4. If Respondent files a Motion to Dismiss, Petitioner shall file his Opposition, if
6 any, to the Motion within twenty (20) days of the date of service thereof. At the time the Opposition is
7 filed, Petitioner shall lodge with the Court any records not lodged by Respondent that Petitioner
8 believes may be relevant to the Court's determination of the Motion. Respondent shall file a Reply, if
9 any, within ten (10) days of the service of the Opposition. If the Motion is denied, the Court will
10 afford Respondent adequate time to Answer Petitioner's claims on the merits.

11 5. If Respondent does not contend that the Petition can be decided without the
12 Court reaching the merits of Petitioner's claims, Respondent shall file and serve an Answer to the
13 Petition within forty-five (45) days of the date of this Order. At the time the Answer is filed,
14 Respondent shall lodge with the Court all records bearing on the merits of Petitioner's claims,
15 including the briefs specified in rule 5(d) of the Rules Governing Section 2254 Cases in the United
16 States District Courts. The Answer shall also specifically address the necessity for an evidentiary
17 hearing to resolve any issue.

18 6. Petitioner may file a single Reply responding to matters raised in the Answer
19 within thirty (30) days of the date of service thereof. Any Reply filed by Petitioner (a) shall state
20 whether Petitioner admits or denies each allegation of fact contained in the Answer; (b) shall be
21 limited to facts or arguments responsive to matters raised in the Answer; and (c) shall not raise new
22 grounds for relief that were not asserted in the Petition. Grounds for relief withheld until the Reply

23
24 1 If Respondent contends that some or all of Petitioner's claims are procedurally defaulted, such
25 contentions should not be made in a Motion to Dismiss, but rather, should be made in Respondent's
Answer to the Petition, which shall also address the claims on their merits.

26 2 If Respondent files a Motion to Dismiss on the ground that Petitioner has failed to exhaust state
27 court remedies as to any ground for relief alleged in the Petition, Respondent shall specify the state court
remedies still available to Petitioner and calculate the time remaining on the applicable statute of
28 limitations period (even where Respondent does not argue the Petition is untimely).

1 will not be considered, unless the Court grants leave to amend the Petition. No Reply shall exceed
2 twenty (20) pages in length absent advance leave of Court for good cause shown.

3 7. A request by a party for an extension of time within which to file any of the
4 pleadings required hereunder will be granted only upon a showing of good cause, and should be made
5 in advance of the due date of the pleading. Any such request shall be accompanied by a declaration,
6 under penalty of perjury, explaining why an extension of time is necessary and by a proposed form of
7 order granting the requested extension.

8 8. Unless otherwise ordered by the Court, this case shall be deemed submitted on
9 the day following the date Petitioner's Opposition to the Motion to Dismiss and/or Reply is due.

10 9. Every document delivered to the Court must include a certificate of service
11 attesting that a copy of such document was served on opposing counsel (or on the opposing party, if
12 such party is not represented by counsel). Any document delivered to the Court without a certificate of
13 service may be returned to the submitting party and without consideration by the Court.

14 10. Petitioner shall immediately notify the Court and counsel for Respondent of any
15 change of Petitioner's address. If Petitioner fails to keep the Court informed of where Petitioner may
16 be contacted, this action will be subject to dismissal for failure to prosecute.

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18 **MOTION PROCEDURE**

19 The parties shall observe the following motion procedures, which differ in some respects from
20 the Local Rules. (*Pro se* parties who are not attorneys are already exempt from some requirements,
21 such as the Early Meeting of Counsel, pursuant to Local Rule 16-11.)

22 1. **Deadline for Opposition and Reply Briefs.**

23 a. **When Petitioner is the Moving Party.**

24 Respondent's Brief in Opposition to any motion by Petitioner must be filed and served
25 no later than fourteen (14) days after service of Petitioner's moving papers. Petitioner's Reply, if any,
26 must be filed and served within thirty (30) days of the date of service thereof.

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b. When Respondent is the Moving Party.

Petitioner's Brief in Opposition to any motion by Respondent must be filed and served no later than thirty (30) days after service of Respondent's moving papers. Respondent's Reply, if any, must be filed and served within ten (10) days of the date of service thereof.

The parties shall observe these deadlines without awaiting an order from the Court in response to any specific motion.

2. **No Hearings On Motions.**

The Court shall not hear oral argument on motions. Unless the Court orders otherwise, motions shall stand submitted after the deadline for submission of memoranda has passed.

IT IS SO ORDERED.

DATED: 7/31, 2007

Joh. C. Ruyten, Jr.

JOHN C. RAYBURN, JR.
UNITED STATES MAGISTRATE JUDGE